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ABSTRACT

While several paradigms for judging debate have been thoroughly discussed, the view of the judge as a tabula rasa has received little treatment. The tabula rasa approach can take the form of a framework added onto a traditional judging framework, or it can take the view that making debate theory debatable is only one of several implications of tabula rasa judging. The tabula rasa approach is justifiable because it encourages sound debating and because it is consistent with the assumptions of debate. In general, a tabula rasa judge believes that debate theory is a debatable issue and that the judge should attempt to be neutral in a debate round. There are four issues beyond this general principle that divide tabula rasa judges into subgroups: whether or not there are any issues not debatable in a round, the amount of argumentation needed to support a theoretical position, what to do with the theoretical argument once it has been decided, and what to do in the absence of theoretical arguments. (TJ)

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TABULA RASA AS AN APPROACH TO THE JUDGING OF DEBATES

Walter Ulrich

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Tabula Rasa as an Approach to the Judging of Debates

Until the past ten or fifteen years, the discussion of the general approaches that a critic-judge could take in a debate round had not been widespread. With the possible exception of the Wells-O'Neill debate in 1915-1918,[1] most of the discussion of the judging of debates in the first part of this century focused on the way judges, in practice, did judge debates, as opposed to how judges should judge debates. Judges were divided into two camps; those who judged debates by evaluating the quality of the analysis of both teams, and those who judged debates based on the skills demonstrated in the contest.[2] Recent discussion of the judging of debates has shifted the focus of the debate community toward how the judge should evaluate arguments. Rather than discuss the types of characteristics of an ideal debater, the discussion in recent years has focused on the ways to evaluate the arguments that are presented in the debate round, and to determine the decision based on those arguments.

The emphasis on judging paradigms is illustrated by the amount of literature that has been devoted to the various approaches to judging debates. At both the 1974 and 1976 national Speech Communication Association Conventions, programs were held that were devoted to the discussion of the various judging paradigms that have been used by active debate coaches. Since 1974, the National Debate Tournament has published a booklet describing the judging positions of all critics at the tournament; this practice has spread to many of the district tournaments. Cox devoted a section of his study of the judging philosophies at the 1974 National Debate Tournament to the types of approaches the judges used to evaluate debates.[3]

While there has been a great deal of emphasis on judging paradigms in general, one such approach to judging has been systematically neglected. The traditional model of the judge as being an evaluator of issues is drawn from the traditional concept of stock issues, and has been widely discussed.[4] The views of the judge as a policy maker,[5] a hypothesis tester,[6] or an evaluator of argumentation skills[7] have also been given consideration. The view of the judge as a tabula rasa, which Cox lists as one of the five most predominant judging approaches at the 1974 National Debate Tournament, however, has received little or no treatment. The tabula rasa approach to judging argues that:

> The basic premise of /the tabula rasa/ judging philosophy is that the judge enters the debate tabula rasa; to determine the outcome solely on the basis of argumentation in the round. An obvious corollary is that the debate theory is a debatable issue. If there is conflict in the round over theory, /the judge should/ resolve it on the basis of the theoretical issues discussed. /The judge/ will also judge a round on the basis of criteria accepted by both teams, even if /she/he/ personally disagree/s/ with these criteria. /The judge should/ impose /her/his/ own standards only if there is conflict within the debate that is not resolved by the argumentation in the round.[8]

The neglect of this approach to judging is regretable. Many of the assumptions of this theory are beginning to become a part of the debate community. The idea that debate theory is debatable is often accepted in a counterplan round, for example, especially when the judge has not yet developed a clear theory of the counterplan. The theory also represents a type of an approach to judging that views the role of the judge as being determined by rules drawn from the nature of the adversary system; rules drawn more from law than from the policy making framework.

The tabula rasa approach to judging can take one of two forms. In the first form, the framework is added onto a traditional judging framework. A judge could, for example, normally be a policy maker, but would accept theoretical arguments that suggested an alternate way of

judging the debate. The second form of tabula rasa would view the making debate theory debatable as being only one of several implications of the tabula rasa approach. This paper will argue that the first form of tabula rasa is a necessary component to any judging philosophy, and that the second form of tabula rasa is a desirable extention of any judging philosophy.

I

There are at least two justifications for the tabula rasa approach to judging. First, a tabula rasa approach to judging encourages sound debating. One of the goals of debate should be to teach students the nature of argumentations. Not only should our students be practitioners of the art, they should also know the theory behind the practice. This should go beyond the requirement that students be able to recite by rote the requirements of an affirmative team, the nature of presumption, or what is meant by inherency. A true understanding of the theory of argument requires that students be able to explain the reasons behind the concept. The current structure of debate, however, does not encourage students to learn the rationales behind the major concepts of argumentation, since they merely have to appeal to the judge's understanding of the term to win the round. Many debaters may win or lose rounds based on arguments such as inherency, justification, or counterplans without understanding those concepts. Zerjav suggests:

> Over time, academic debate has accepted certain rules which have gained wide acceptance. Many of these rules are accepted today not for ethical, logical, or other articulated reasons, but by virtue of habit. These prescriptions and proscriptions--without further review of their original justification--are considered inviolable procedural guidelines. The result is that what may be perfectly legitimate forms of argumentation and refutation are not accepted or used to any significant degree.[3]

Judges react to key words, without requiring teams to know the reasons

behind those key words. This hardly trains the students for the real world. When a student becomes an advocate and argues a need must be inherent, or that presumption is always with the present system, (s)he is likely to be greeted with the response (from an uneducated audience): Why? The argument of the debater will not convince an audience untrained in argument unless the debater can explain why argumentation theory demands that certain requirements be met before we act.

By imposing rules on debate teams, we may also fail to vote for the best team. If a team presents a bad theoretical argument, but the other team cannot tell there is anything wrong with the argument, does that mean that the first team is the weaker team? Which is worse, a team presenting a bad argument, or a team that is confronted with a bad argument, and does not know what to do with it? I would argue that the team presenting the bad argument is at least as good, if not better than the other team. Perhaps the first team has thought of a new defense for the argument. Perhaps it has discovered some new evidence to support its view of the theory. Unless the other team argues the issue, the judge has no reason to reject the position. By requiring theoretical arguments to be justified and defended in the round, the judge forces teams to understand and to be able to defend the basis for the theoretical arguments. What other approach to judging could be more educationally sound?

The second justification for the tabula rasa approach to judging is that it is consistent with the assumptions of debate. In selecting a judging approach, we must recognize the reasons for selecting debate as a forum. One justification is that debate allows for the discovery of the truth. The basis behind the guarantee of freedom of speech in the Constitution would suggest that the place to resolve matters of controversy is in an open forum:

> The process by which truth wins in discussion is this - certain strong and eager minds embrase original opinions, seldom all wrong and never quite true, but of a mixed sort, part truth, part error. These they inculate on all occasions, and on every side, and gradually bring the cooler sort of men to a hearing of them. These cooler people serve as quasi-judges, while the more eager ones are sort of advocates.[10]

All issues are open debate. Rather than decree that we, as judges, have a direct knowledge of the truth, we need to keep our minds open to new possibilities. This would include even those views that we feel are beyond debate:

> The theory demands that discussion must be kept open no matter how certainly true an accepted opinion may seem to be. Many of the most widely acknowledged truths have turned out to be erroneous. Many of the most significant advances in human knowledge - from Copernicus to Einstein - have resulted from challenging hitherto unquestioned assumptions. No opinion can be immune from challenge.[11]

If the theoretical positions advanced are weak, then debaters will, over time, learn how to respond to them, just as they would have to respond to them in real world argumentation. Where the theoretical positions are correct, or where the arguments help improve the basis of argumentation theory, the debate over theory can only enhance our understanding of argument. In all cases, the judge should refrain from entering the argument:

> The judge does not play a part in the deliberations by definition; instead he arbitrates following the deliberations. The parties to the dispute agree <u>a priori</u> to accept his judgement. He is external to the deliberations by decree.[12]

The judge must remain neutral to the arguments. The basis of the adversary system is that the judge is unbiased; the discussion of the issues is done by the two parties, and the judge acts on the basis of this dispute, not on the basis of the judge's bias:

> The philosophy of adjudication that is expressed in "the adversary system" is, speaking generally, a philosophy that insists on keeping distinct the function of the advocate, on the one hand, from that of the judge, or that of the judge and jury, on the other. The decision of the case is for the judge, or for the judge and the jury. That decision must be as objective and free from bias as it possibly can.[13]

Just as free debate should be used to determine matters of policy, the debate forum should be used to determine matters of theory. Even experts in the field of argumentation disagree on theory. To say that one theoretical position is the truth is to ignore all the debate about debate that is taking place.

The notion of judge impartiality is not a new idea. In deciding the merits of a policy, judges have always attempted to be objective: "The judge must base his decision entirely on the material presented, without regard for other material which he may happen to posess."[15] The judge should not be biased toward one side, based on the judge's view of the merits of the policy under consideration:

> One of the most important things to remember in this context is that the judge is always an evaluator in a comparative sense. In other words, he must always evaluate one team's analysis or argumentation in comparison to that of the other team. He must decide who does the better job of debating on the basis of what happens in a given confrontation, not on the basis of how he personally feels about a particular issue or argument . . . .[16]

There is no reason why the same limitation should not be placed on theoretical arguments. While it may not be possible to completely eliminate your bias on a theoretical position (just like it would be difficult to completely eliminate your bias on the merits of the policy being debated); it is a goal that can be aimed at, and most judges could come close to being objective on theoretical issues.

This does not mean that we, as scholars in argumentation, should not have theories about argument. I have a general idea of the nature of counterplan theory, inherency, presumption, evidence, and so on. I can enter into the debate among scholars in journals and at conventions about what debate should be, and what strategies are desirable. I can even help my teams understand the reasons behind my theoretical beliefs. The only limit this places on me is that, when I am judging a round, I

should suspend my beliefs during that round, and judge on the criteria argued in the round.

Some have objected that discussing theoretical arguments in a debate round takes up too much time.[17] Any argument takes up time, and involves choice. If the theoretical argument has no consequence in the round, it probably would not be worth discussing. Where the theoretical argument determines who wins or loses a round, the argument should be raised and debated, just as it would have to be raised and argued in a court of law. If the theoretical position is so important that the debate hinges on how it is resolved, the resolution of that theoretical issue should be done in open debate, rather than be based on the judges hidden bias. The amount of time that a team needs to develop a theoretical argument will also be related to the amount of time the other team spends answering it. A team does not have to spend a lot of time on the theoretical argument if they do not anticipate the other team will devote much time to the issue. The lack of time argument also applies to any argument in any debate, not just theory arguments.

Zarefsky makes a slightly different version of this argument, suggesting that theoretical arguments must end up ad hominem arguments (in Johnstone's sense of the term), which would be difficult to resolve.[18] This problem can occur when debating any policy (e.g., an affirmative team arguing for law and order can only attack a negative team arguing for individual rights on an ad hominem basis), and thus this is not a unique problem for the tabula rasa judge. There is one diference: the judge is not a part of either philosophical system being argued in the round, and thus both teams will be forced to draw from information outside their system to support their views of reality. The debaters are not attempting to convince someone to change from one internally consistent system to another,

but rather, you are attempting to convince a neutral person to adopt a system where no system existed before. While that problem may be difficult, the advocates could attempt to build a supra-system that emcompasses both paradigms, or to appeal to higher values (e.g., the educational purpose of debate) to justify one system.

II

Given the theoretical background of the tabula rasa judge, it becomes appropriate to discuss the implications of this judging philosophy. As with any approach to judging, the tabula rasa approach consists, not of one uniform view of judging, but rather of a genre of judging approaches that share certain views of debate. All tabula rasa judges would agree that debate theory is a debatable issue, and that the judge should attempt to be neutral in a debate round. Rather than impose his/her theory of debate, the judge lets the debaters decide these issues, just as they would decide any other issue in any debate round: by anvancing and responding to arguments in a debate round. All issues, both related to the subject matter and related to debate theory are open to debate.

Beyond this general principle, there are four main issues that divide tabula rasa judges into subgroups. The first issue is whether there are any issues that are not debatable in a round. While the nature of this approach would suggest that no issues are too controversial to be decided in a round, there are a few extreme cases where a judge could rule an issue not to be debatable. Two examples could illustrate this. The first example would be where a team is caught manufacturing evidence, and argues that they should still win. A second example would be where the second affirmative rebuttalist drops the original case, reads a new case and argues that this is theoretically sound.

10 In the first example, some judges may vote for the team violating

the norms for standards of evidence, based on the theoretical issues debated in the round, while others would vote against the team on the spot (the new A.F.A. code of ethics may alter this example by introducing an external law into the judge's decision, making the issue undebatable like time limits). In the second example, probably no judge would vote for the affirmative, although the tabula rasa approach would seem to dictate an affirmative ballot. To use this example to reject this approach is misleading. A tabula rasa judge is a tabula rasa judge, not out of ignorance, but because of a dedication to the process of argument. The judge does not forget everything about argument that (s)he knows, but rather suspends that knowledge to arrive at a superior evaluation of the relevant merits of the two teams. Where the original justification for the tabula rasa approach no longer exists, i.e., where there is no chance for the other team to respond to a position, the judge can intervene to protect the adversary system. This intervention should be kept to a minimum, though; the adversary system should be allowed to fend for itself in most cases.

For the most part, except in very extreme cases such as these two examples, most theoretical issues should be debated in the round. The debate teams decide if a case is topical; the judge merely decides which team advanced and defended the best arguments for or against the affirmative team's topicality. The debate teams decide whether a case must be inherent, whether a counterplan is competitive, or whether the judge should be a hypothesis tester or a policymaker. The judge sits back, evaluates these issues, and then uses the theoretical position best defended in the round to guide his/her decision. One judge may use one theoretical argument to decide an issue one round, another the next round. The framework used by the judge will be determined by the arguments in the round.

Second, a judge needs to determine the amount of argumentation needed to support a theoretical position. There are two extreme positions

that can be taken. The first position would argue that if a team states a position, and the other team does not respond to that position, the judge must use the position stated. Thus, all a team needs to do to make a plan attack absolute is to say that the plan attack is absolute, and if the first affirmative rebuttalist does not have enough time to say that the plan attack is not absolute, the attack must be considered absolute. At the other extreme, the judge could require that the team advancing the theoretical to develop extensively the theoretical position in order for the judge to accept the position. While, strictly speaking, the first position is more consistent with the tabila rasa position, it could lead to superficial analysis of theoretical positions. Jones and Flegle give an example of this in their discussion of the 1973 final round of the NDT:

> It is apparent that "presumption" per se was not argued. Second affirmative constructive asserts "He (Minceberg) abandons presumption." First negative does not respond; neither does first affirmative; neither does second negative. Final affirmative rebuttalist once again asserts "He (Minceberg) gives up presumption in totality." Why? We never know![9]

The question arises, should a judge accept a theory if it is merely asserted, or should the judge require that some minimal requirement be met before (s)he considers a theoretical argument? If so, what should that criteria be?

There is a third position between these two extremes. A team could be required to do more than just assert a theoretical position; some reason should be given for the position. The judge should not evaluate the adequacy of that reason once it is given, unless the other team argues the position. This requirement prevents the introduction of extraneous theoretical arguments, and forces teams to understand some reason for the theory that they are advancing. It also provides for some basis of dispute between the two teams.

12 The third consideration for the tabula rasa judge is what to do with the theoretical argument once it has been decided. In many rounds, the

theoretical arguments are not well developed. Thus the judge could, at the end of the round, be unsure what a theoretical argument means. For example, an affirmative team with three advantages would meet a negative team that argues that the affirmative team must "win" all three advantages, or else a wise policy maker would adopt two advantages, and spend the money saved on the third advantage on social programs. If the negative team wins both the theoretical argument and solvency or harm on one advantage, clearly they would win. If the negative team won inherency, however, the issue is less clear, since the basis of the theoretical argument would not apply; to "win" the advantage, the negative must spend the same money the affirmative does. What does the judge do? Does the judge use the definition of "win" that is implied by the argument, or a broader definition of"win"? In this case, the broader definition of win would probably be justified, since the affirmative team did not argue for a more narrow definition of the word.

The same problem occurs when a debate team argues a judge should be a policy maker or a hypothesis tester. There are several types of policy makers, or hypothesis testers, and although these paradigms have certain features in common, they difer in some areas. The judge then must decide which specific form of the paradigm should be used.

This issue is also raised when the teams present arguments on theory, but do not explain why the theory is critical. Debaters suggest an affirmative team does not justify the resolution, or is not inherent, but do not explain why these issues are voting issues. In these cases, I would view these issues as merely being descriptive, until the team justifies these issues as being voting issues.

The final, and possibly the most critical issue for the tabula rasa judge, is what to do in the absence of theoretical arguments. In many debate rounds, theory is not discussed. The natural inclination for the judge is to use the judging paradigm that (s)he normally used. This would make

the tabula rasa approach to judging little different from any other approach, with the exception the the tabula rasa judge is open to theory argumepts. This is a very limited view of the approach. The nature of the justification for tabula rasa judging would suggest that a very specific type of judging style should be used where there are no theoretical arguments presented in the round, and this style is different from the traditional models of judging.

To arrive at this model, one needs to go back to the basis of the tabula rasa approach to judging; that argument is a means toward the truth. This view suggests that the judge should strive to be objective:

> To be objective means to accept limitations upon what one can do. To act objectively is not merely to act in a manner whereby one convinces himself that he has acted objectively, but to operate in a manner that will convince others--particularly unsympathetic others--that one has.[20]

The judge should not favor one side over another; the judge should be impartial, and not take sides.[21] This has implications on the types of decision rules that a judge employs. The decision rule should not favor one side over the other. The judge needs to be fair and impartial. Wechsler, in what is probably the most influential article ever written on legal reasoning, argues that a judge should develop neutral principles:

> A principled decision, in the sense I have in mind, is one that rests on reasons with respect to all the issues in the case, reasons that in their generality and their neutrality transcend the immediate result that is involved.[22]

This would suggest that the judge should be prepared, in deciding which team wins a debate, to apply the decision governing principle to all other debates that judge hears. It also means that the decision rule used should be fair to both sides.

The notion that a judge should use a neutral decision rule has several implications. In the area of presumption, for example, this view would almost eliminate the use of the concept. To say that the negative

team has presumption is to use a decision rule that favors one team over another. This decision rule is not developed due to anything the negative team did in the round, but rather is due to the judge's bias. The negative would have this advantage regardless of what they did. A judge using this decision rule would not be neutral toward both sides, but rather would systematically favor one side of the dispute. A counterpart in law would be a judge who decided the burden of proof should be higher for the poor rather than the rich (since poor people commit more crimes). In neither case is the departure from neutrality justified.

The same concept would be true for the rules of evidence. To assign one team a burden of proof is arbitrary; a proponderence of evidence standard would be more neutral. The judge should evaluate the evidence on an issue and decide, based on that evidence, what the probability is that a statement is true. The standard of proof should be the same for both sides:

> . . . by freely submitting his own views to criticism, the protagonist not only earns the right to criticise the views of his opponent but, more importantly, imposes upon his opponent the same standards of adequacy and accuracy which that party imposes on him.[23]

All requirements made of one side should be made of the other side. The judge should be neutral in deciding responsibilities.

It may be argued that any judging philosophy cannot be neutral. Despite that limitation, the judge can attempt to develop judging rules that do not favor one side over the other. The purpose of the judge is to decide which side did the better debating, not whether a certain policy is desirable. While concepts such as presumprion and burden of proof may help determine which policy should be adopted, they do not help in determining which side did the better debating; these concepts exist outside the round and cannot be brought into the round without distorting the process.

The thesis of the tabula rasa approach to judging is that the judge has to be neutral. This neutrality is vital to the activity. It is

recognized when we ask judges to refrain from voting on their prejudices on the merit of the topic. It is educationally sound. This commitment to neutrality requires much of the judge. At a minimum, the judge should be open to theoretical arguments. An implication of this neutrality is that the judge should require teams to initiate and justify theoretical arguments and that, in the absence of theoretical arguments, the judge should impose only the bare minimum number of decision rules, and these rules should be formulated in a way that they apply to a large number of debates and do not favor one team over the other.

FOOTNOTES

[1]The debate between Hugh N. Wells and James M. O'Neill took place in various issues of the Quarterly Journal of Speech Education between 1915 and 1918. For a summary of the debate, see Arthur N. Kruger, Counterpoint: Debates about Debate (Metuchen, N.J.: The Scarecrow Press, Inc., 1968), pp. 322-344.

[2]Dennis P. Dunne, Herschell L. Mack and Robert Pruett, "Emperical Evidence on the 'Logical'-'Proficiency' Dichotomy in Debate Judging," Journal of the American Forensic Association, VII (Winter, 1971), 201-207.

[3]J. Robert Cox, "A Study of Judging Philosophies of the Participants of the National Debate Tournament," Journal of the American Forensic Association, XI (Fall, 1974), 62-65.

[4]Most debate texts discuss the nature of the stock issues. See also J. Michael Sproule, "Debating and Judging: The Interaction of Variables," In Advanced Debate: Readings in Theory, Practice and Teaching (Skokie, Illinois: National Textbook Company, 1975), pp. 310-315.

[5]See, for example, Daniel M. Rohrer, "The Nature and Functions of Policy Systems in Debate." Paper presented at the annual convention of the Speech Communication Association, December 28, 1976.

[6]David Zarefsky, "A Reformulation of the Concept of Presumption." Paper presented at the annual convention of the Central States Speech Association, April 7, 1972, Bill Henderson, "Debate as a Paradigm for Demonstrating Truth Through Hypothesis Testing." Paper presented at the annual convention of the Speech Communication Association, December, 1974, and David Zarefsky, "Argument as Hypothesis Testing." Paper presented at the annual convention of the Speech Communication Association, December 28, 1976.

[7]Gerald H. Sanders, "Debate as a Paradigm for Demonstrating Skills in Argumentation and Logic." Paper presented at the annual convention of the Speech Communication Association, December, 1974.

[8]Mark Arnold, in Booklet of Judges, Twenty-Eighth Annual National Debate Tournament (April 19-22, 1974).

[9]Debbie Zerjav, "An Examination and Extention of Conditional Negative Argument," Proceedings, National Conference on Argumentation (Ft. Worth, Texas: Texas Christian University, August 4-5, 1973), p. 47.

[10]Walter Bagehot, "The Metaphysical Basis of Toleration," in Literary Studies, edited by Richard Holt Hutton (New York: Longmans, Green & Company, 1913), p. 208.

[11]Thomas I Emerson, "Toward a General Theory of the First Amendment," Yale Law Journal, LXXII (1963), 881-882.

[12]Henderson, p.3.

[13]Lon L. Fuller, "The Adversary System," in Talks on American Law, edited by Harold J. Berman (New York: Vintage Books, 1971), p. 34.

[14]See Kruger for several examples of issues that debate scholars disagree with each other on.

[15]George McCoy Musgrave, Competitive Debate: Rules and Techniques (New York: H.W. Wilson Company, 1957), p. 103.

[16]Marvin D. Kleinau and Isaac Catt, The Judging of Debate: Evaluating Argument on Health Care in the United States (Saint Louis, Missouri: Springboards, Inc., 1977), p. 1.

[17]See Ben Jones and Jim Flegle, "Conflicting Assumptions of Modern Debate: A Classic Example," Speaker and Gavel, XI (March, 1974, 67-70, and David Zarefsky and Elliot Mincberg, "Theoretical Issues in Academic Debate: The Obstacles to Discussion," Speaker and Gavel, XII (Fall, 1974), 15-16.

[18]Zarefsky, "Argument as Hypothesis Testing," pp. 12-13.

[19]Jones and Flegle, p. 70.

[20]George C. Christie, "Objectivity in the Law," Yale Law Journal, LXXVIII (1969), 1340.

[21]Fuller, pp. 34-35.

[22]Herbert Wechsler, "Toward Neutral Principles of Constitutional Law," Harvard Law Review, LXXIII (November, 1959), 19.

[23]Douglas Ehninger, "Debate as Method: Limitations and Values," Speech Teacher, XV (September, 1966), 185.